

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

TRUSTEES OF HACKBERRY BAPTIST)
CHURCH,)

Plaintiff,)

v.)

RHONDA DODY WOMACK, d/b/a)
WOMACK AGENCY and NATIONWIDE)
MUTUAL INSURANCE COMPANY,)

Defendants.)

Case No. 4:14-cv-00037

ORDER

By: Hon. Jackson L. Kiser
Senior United States District Judge

Defendants Rhonda Womack (“Womack”) and Nationwide Mutual Insurance Company (“Nationwide”) removed this action to this Court on July 29, 2014. Although both Plaintiff and Womack are residents of Virginia and are non-diverse for purposes of jurisdiction, Defendants contend that Womack was fraudulently joined. (See Not. of Removal ¶¶ 8–10, July 29, 2014.) Defendants filed a Motion to Dismiss the Complaint pursuant to Rule 12(b)(6), and Plaintiff filed a Motion to Remand, on August 29, 2014. (See Mot. to Dismiss, Aug. 29, 2014 [ECF No. 10]; Pl.’s Mot. to Remand, Aug. 29, 2014 [ECF No. 13].) Both motions were fully briefed and the parties appeared in open court on October 9, 2014, to argue their respective positions. For the reasons stated in open court and in the accompanying Memorandum Opinion, Plaintiff’s Motion to Remand is **DENIED** and Defendants’ Motion to Dismiss **GRANTED IN PART and DENIED IN PART**. Specifically, all counts against Womack are dismissed, and the claim of fraud against Nationwide (Count II) is dismissed. The charge of breach of contract against Nationwide (Count I) survives. Plaintiff is hereby granted fourteen (14) days to file an amended Complaint, if it so chooses.

The Clerk is directed to forward a copy of this Order and accompanying Memorandum Opinion to all counsel of record.

Entered this 20th day of October, 2014.

s/Jackson L. Kiser
SENIOR UNITED STATES DISTRICT JUDGE